

Applicant's election with traverse of group I, claims 1-42 and 44-46 in the reply filed on 2/26/2010 is acknowledged. The traversal is on the ground(s) that there is no burden on the examiner to examine both inventions. This is not found persuasive because examining two inventions with differing scopes, like groups I and II, necessarily imposes a burden on the examiner. Accordingly, claims 43 and 47-49 are withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-41 and 44-46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite a mathematical algorithm per se. In order to be statutory, the claim must transform matter or use technology. The examiner suggests that applicant recite that the classifying step of the method is performed in a processing device or use similar language, that is supported by the specification

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-42 and 44-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

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was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The invention states that the weight given to one or more of the categories of psoriasis is greater than the weight given to another of the categories. It is, however, unclear how the weight is assigned or used, as the examiner does not see from the specification how the weights are calculated, used or assigned. The specification discussion given added weight to some of the categories, no formula or methodology is provided. Clarification is required.

Claims 1-42 and 44-46 define over the art of record in that none of the art assigns a greater weight to one category than to another, as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT L. NASSER whose telephone number is (571)272-4731. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Robert L. Nasser Jr/  
Primary Examiner  
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RLN  
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